



Patrick W. Turner
General Counsel-South Carolina
Legal Department

AT&T South Carolina
1600 Williams Street
Suite 5200
Columbia, SC 29201

T: 803.401-2900
F: 803.254.1731
pt1285@att.com
www.att.com

October 1, 2009

The Honorable Charles Terreni
Chief Clerk of the Commission
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

Re: Steve Armfield v. BellSouth Telecommunications, Inc. d/b/a AT&T South
Carolina
Docket No. 2009-255-C

Dear Mr. Terreni:

Enclosed for filing is AT&T South Carolina's Motion to Dismiss in the above-referenced matter.

By copy of this letter, I am serving all parties of record with a copy of this pleading as indicated on the attached Certificate of Service.

Sincerely,

A handwritten signature in black ink that reads "Patrick W. Turner". The signature is written in a cursive, flowing style.

Patrick W. Turner

Enclosure
cc: All Parties of Record
DMS #744034

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

IN RE:	Steve Armfield,)	
)	
	Complainant/Petitioner,)	Docket No. 2009-255-C
)	
	v.)	
)	
	BellSouth Telecommunications, Inc.)	
	d/b/a AT&T South Carolina,)	
)	
	Defendant/Respondent.)	
)	

AT&T SOUTH CAROLINA’S MOTION TO DISMISS

As noted below, BellSouth Telecommunications Inc. d/b/a AT&T South Carolina (“AT&T South Carolina”) remains willing to participate in mediated settlement discussions on a strictly voluntary basis as outlined in the email string that appears on the Commission’s website as Item No. 219085 under this matter’s “Docket Detail.” As of October 1, 2009, however, the Public Service Commission of South Carolina (“the Commission”) lacks jurisdiction over the matters addressed in the Complaint as a result of AT&T South Carolina’s election to operate under Section 58-9-576(C).¹ BellSouth Telecommunications Inc. d/b/a AT&T South Carolina (“AT&T South Carolina”), therefore, respectfully moves the Commission to dismiss the Complaint and close this Docket.

AT&T South Carolina’s election to operate pursuant to S.C. Code Ann. §58-9-576(C) became effective October 1, 2009.² As of that date, the Commission has limited jurisdiction over

¹ This ground for dismissing the Complaint is not set forth in AT&T South Carolina’s pending Motion to Dismiss (filed August 6, 2009) because AT&T South Carolina had not filed its election as of that date.

² See Non-Docketed Item No. ND-200908-C (September 23, 2009).

a specified subset of AT&T South Carolina's stand-alone basic residential lines.³ Otherwise, "the commission must not impose any requirements related to the terms, conditions, rates, or availability of any of [AT&T South Carolina's] retail services; or otherwise regulate any of [AT&T South Carolina's] retail services"⁴ It is clear from the pleadings that the Complaint in this Docket addresses AT&T South Carolina retail services other than stand-alone basic residential lines. The Commission, therefore, lacks jurisdiction over the Complaint, and AT&T South Carolina respectfully moves the Commission to dismiss the Complaint and close this Docket.⁵

Prior to the effective date of its election, AT&T South Carolina stated a willingness to voluntarily participate in mediated settlement discussions while expressly reserving its rights to seek dismissal of the Complaint for the reasons set forth in this Motion.⁶ AT&T South Carolina understands that those discussions will take place on October 8, 2009, and AT&T South Carolina remains willing to participate in those discussions on a good-faith and strictly voluntary basis. In doing so, however, AT&T South Carolina is not voluntarily submitting to the jurisdiction of the Commission with regard to this Complaint, and it respectfully requests that the Commission dismiss the Complaint and close this Docket for the reasons set forth above.

³ See S.C. Code Ann. §58-9-576(C)(2).

⁴ *Id.*, §58-9-576(C)(3).

⁵ AT&T South Carolina also renews its request that the Commission dismiss this action on the additional grounds set forth in its pending Motion to Dismiss (filed August 6, 2009).

⁶ See AT&T South Carolina's Notice Regarding Testimony and Reservation of Rights (September 24, 2009).

Respectfully submitted this 1st day of October, 2009

A handwritten signature in black ink that reads "Patrick W. Turner". The signature is written in a cursive style with a large, sweeping initial "P".

Patrick W. Turner
1600 Williams Street, Suite 5200
Columbia, South Carolina 29201
803-401-2900

ATTORNEY FOR AT&T SOUTH CAROLINA

744013

STATE OF SOUTH CAROLINA

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CERTIFICATE OF SERVICE

COUNTY OF RICHLAND

)

The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, Inc. d/b/a AT&T South Carolina and that she has caused AT&T South Carolina's Motion to Dismiss in Docket No. 2009-255-C to be served upon the following on October 1, 2009:

Shannon Bowyer Hudson, Esquire
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, South Carolina 29201
(Office of Regulatory Staff)
(Electronic Mail)

Jocelyn G. Boyd, Esquire
Deputy Clerk
S. C. Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211
(PSC Staff)
(Electronic Mail)

F. David Butler, Esquire
Senior Counsel
S. C. Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211
(PSC Staff)
(Electronic Mail)

Joseph Melchers, Esquire
Chief Counsel
S.C. Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211
(PSC Staff)
(Electronic Mail)

Steve Armfield
1101 Boyce Street
Post Office Drawer 438
Newberry, South Carolina 29108
(Certified Mail)


Nyla M. Laney

DM5 #737934